

A RESOLUTION
BY ANNE FAUVER
AS SUBSTITUTED BY PUBLIC SAFETY/LEGAL ADMINISTRATION
COMMITTEE

09-R-1642

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO NEGOTIATE SETTLEMENT TERMS FOR THE LAWSUIT STYLED *R. DILLON BAYNES. v. CITY OF ATLANTA, GEORGIA*, CIVIL ACTION NO. 2007-CV-127767, FULTON COUNTY SUPERIOR COURT, WITH THE AMOUNT OF ANY PAYMENT BY THE CITY NOT TO EXCEED \$9,500.00; AUTHORIZING THE CHIEF FINANCIAL OFFICER TO DISTRIBUTE THE FINAL SETTLEMENT AMOUNT; AND FOR OTHER PURPOSES.

WHEREAS, R. Dillon Baynes ("Baynes") sought to rezone his property at 987 Myrtle Street ("Subject Property") from R-5 to RG-3-C but the rezoning was denied by the City Council pursuant to 06-O-1797 on December 4, 2006; and

WHEREAS, Baynes filed a lawsuit, *R. Dillon Baynes v. City of Atlanta, Georgia*, Civil Action No. 2007-CV-127767, Fulton County Superior Court, against the City alleging that City violated its rights under the Georgia and United States Constitution; and

WHEREAS, by Consent Order, the Court remanded the civil action back to the City so that the rezoning could once again be considered upon which said rezoning was again denied by the City Council pursuant to 08-O-1263; and

WHEREAS, the City Attorney believes that the general settlement agreement terms are reasonable accommodations for Baynes' agreement to dismiss its lawsuit by which the Subject Property shall remain R-5; and

WHEREAS, the City Attorney, after conducting a thorough review of this matter, recommends this settlement as being in the best interests of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, that the City Attorney is authorized to settle the case *R. Dillon Baynes v. City of Atlanta, Georgia*, Civil Action No. 2007-CV-127767, Fulton County Superior Court, for an amount not to exceed Nine Thousand Five Hundred Dollars and no cents (\$9,500.00); and

BE IT FURTHER RESOLVED THAT the City Attorney is authorized, on behalf of the City, to negotiate the terms necessary to terminate the litigation and to sign such agreements or other documents necessary to effectuate the terms of this resolution; and

BE IT FURTHER RESOLVED THAT no agreement or other document will be binding upon the City and the City will incur no liability under it, until: (1) it has been executed by R. Dillon Baynes, by the City Attorney and delivered to R. Dillon Baynes; and (2) a copy of a Voluntary Dismissal has been filed with Clerk of the Superior Court and a copy delivered to the City Attorney.

BE IT FURTHER RESOLVED THAT the Chief Financial Officer is authorized to pay not more than Nine Thousand Five Hundred Dollars and no cents (\$9,500.00) to Baynes and/or its attorney of record after notice from the City Attorney that the Voluntary Dismissal has been received, such sum to be charged to Fund 1001 (General Fund) Center Number 200101 (NDP Reservation of fund appropriation) Account 5212005 (Litigation Expense) 1512000 (Accounting)

BE IT FINALLY RESOLVED THAT the terms of this Resolution, including payment to Baynes authorized herein, shall be conditioned upon passage of a companion Ordinance introduced simultaneously with this Resolution and which transfers money between accounts for the express purpose of settling the case.

A RESOLUTION
BY: ~~ANN FAUVER~~
ADE

09-R-

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO NEGOTIATE SETTLEMENT TERMS FOR THE LAWSUIT STYLED *R. DILLON BAYNES. v. CITY OF ATLANTA, GEORGIA*, CIVIL ACTION NO. 2007-CV-127767, FULTON COUNTY SUPERIOR COURT, WITH THE AMOUNT OF ANY PAYMENT BY THE CITY NOT TO EXCEED \$9,500.00; AUTHORIZING THE CHIEF FINANCIAL OFFICER TO DISTRIBUTE THE FINAL SETTLEMENT AMOUNT; AND FOR OTHER PURPOSES.

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